

Federal Communications Commission

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Natchez Communications, Inc.)
WTYJ)
Natchez, Mississippi)

File No. EB-00-OR-134
NAL/Acct. No. X3262012

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: September 7, 2000

By the Enforcement Bureau, New Orleans Field Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Natchez Communications, Inc. (“Natchez”), licensee of FM broadcast station WTYJ, has apparently violated sections 17.4(g) and 17.50 of the Commission’s Rules (“Rules”) by failing to display the antenna structure registration number and by failing to clean or repaint the antenna structure as often as necessary to maintain good visibility.¹ We conclude that Natchez is apparently liable for a forfeiture in the amount of sixteen thousand dollars (\$16,000).

II. BACKGROUND

2. On March 19, 1999, an agent from the Commission’s New Orleans Field Office (“Field Office”) inspected FM broadcast station WTYJ. During this inspection, the agent determined the station’s antenna structure was not in compliance with the Rules in that the antenna structure registration number was not displayed, the structure’s lights were not functioning, and the structure’s paint was faded, chipped, and peeling such that it no longer provided good visibility.

3. On March 31 1999, a Notice of Violation (NOV) was issued to Natchez citing these deficiencies. On April 15, 1999, Natchez submitted a written reply that stated that it was in the process of correcting the antenna structure registration and would display the number. Natchez further stated that it was under the impression that the paint was in good enough shape to not have to paint a tower that will be taken down in the next 90 to 120 days. Finally, Natchez indicated that it was in the process of hiring an antenna crew to repair the lights.

4. More than a year later on July 21, 2000, a New Orleans Field agent again inspected the antenna structure for station WTYJ. During this inspection, the paint was observed to be faded to the extent that it did not provide the structure with good visibility. Additionally, no antenna structure registration number was displayed at the base of the structure.

¹ 47 C.F.R. § 17.4(g) and 47 C.F.R. § 17.50.

III. DISCUSSION

5. Section 17.4(g) of the Rules requires the owners of registered antenna structures to display the antenna structure registration number in a conspicuous place so that it is readily visible near the base of the antenna structure.² The material used to display the number must be weather-resistant and of sufficient size to be easily seen at the base of the structure.

6. Section 17.50 of the Rules states that “[a]ntenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility.”³

7. Based on the evidence before us, we find that on July 21, 2000, Natchez willfully⁴ violated Sections 17.4(g) and 17.50 of the Rules by failing to display the antenna structure registration number and failing to clean or repaint the antenna structure as often as necessary to maintain good visibility.

8. Pursuant to Section 1.80 of the Rules, Guidelines for Assessing Forfeiture, the base forfeiture amount for failure to display the antenna structure registration number is \$1,000 (failure to maintain required records) and the base forfeiture amount for failure to comply with prescribed lighting and/or marking is \$10,000.⁵ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934 (“Act”), as amended, which include the nature, circumstances, extent, and gravity of the violation(s), and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁶ Applying Section 1.80 of the Rules and statutory factors to the instant case, an upward adjustment of 50% is warranted for failing to clean or repaint the antenna structure as often as necessary to maintain good visibility (\$15,000). Despite Natchez’s April 12, 1999 assertion that the tower would be taken down in the next 90 to 120 days, the tower was at the same location and had not been repainted as of July 21, 2000. Therefore, a forfeiture in the amount of \$16,000 is warranted.

IV. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act,⁷ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁸ Natchez Communications, Inc., is hereby

² 47 C.F.R. § 17.4(g).

³ 47 C.F.R. § 17.50.

⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁵ 47 C.F.R. § 1.80

⁶ 47 U.S.C. § 503(b)(2)(D).

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. §§ 0.111, 0.311, 1.80.

NOTIFIED of their **APPARENT LIABILITY FOR A FORFEITURE** in the amount of sixteen thousand dollars (\$16,000) for violating Sections 17.4(g) and 17.50 of the Commission's Rules, 47 C.F.R. §§ 17.4(g) and 17.50.

10. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this **NOTICE OF APPARENT LIABILITY**, Natchez Communications, Inc., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture may be made by credit card through the Commission's Credit and Debt Management Center at (202) 418-1995 or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. X3262012.

12. The response if any must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – TPSD, NAL/Acct. No. X3262012 and must include the NAL/Acct. No. X3262012.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.⁹

15. **IT IS FURTHER ORDERED THAT** a copy of this **NOTICE OF APPARENT LIABILITY** shall be sent by Certified Mail, Return Receipt Requested, to Natchez Communications, Inc., P. O. Drawer 1248, Natchez, Mississippi 39120.

FEDERAL COMMUNICATIONS COMMISSION

James C. Hawkins
District Director
New Orleans Field Office

⁹ See 47 C.F.R. § 1.1914.